

# United States District Court

for the  
Western District of New York

United States of America

v.

**Case No. 21-MJ- 1198**

**JADE SMART**

*Defendant*

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about January 28, 2020, in the County of Erie, in the Western District of New York, the defendant, JADE SMART, did maliciously damage and destroy, and attempt to damage and destroy, by means of fire, a building and real property used in interstate commerce and in activity affecting interstate commerce, namely a Habitat for Humanity building located at 79 Kilhoffer Street, Buffalo, New York, all in violation of Title 18, United States Code, Section 844(i).

This Criminal Complaint is based on these facts:

Continued on the attached sheet.

**ROBERT  
GRUNDER**

Digitally signed by  
ROBERT GRUNDER  
Date: 2021.10.20  
10:33:10 -04'00'  
*Complainant's signature*

ROBERT GRUNDER  
Special Agent  
Bureau of Alcohol, Tobacco, Firearms and Explosives



*Judge's signature*

HONORABLE JEREMIAH J. MCCARTHY  
UNITED STATES MAGISTRATE JUDGE

*Printed name and title*

City and State: Buffalo, New York

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

STATE OF NEW YORK )  
COUNTY OF ERIE ) SS:  
CITY OF BUFFALO )

**ROBERT GRUNDER**, being duly sworn, deposes and says:

1. I am a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco and Firearms (herein after ATF) and am presently assigned to the Buffalo New York Field Office. Your affiant has been employed as an ATF Special Agent for approximately sixteen (16) years. During his tenure, your affiant has prepared and assisted in the execution of numerous search and arrest warrants for and been involved in numerous criminal investigations of various violations of the Federal Firearms and Explosives Laws.
2. The information contained in this affidavit is based on your Affiant's review of reports and documents, as well as conversations with other law enforcement personnel.
3. Your affiant makes this affidavit in support of a Criminal Complaint charging Jade SMART, with violating Title 18 U.S.C. Section 844 (i), that is maliciously damage or destroy, or attempt to damage and destroy, by means of fire or an explosive, any building used in interstate or foreign commerce.
4. The ATF and the Buffalo Fire Marshal's Office conducted an investigation into a fire that took place at 79 Kilhoffer Street, Buffalo, New York, on January 28, 2020. The Buffalo Fire Marshal's office determined the fire to be an arson. Your affiant believes probable

cause exists that SMART planned the arson at 79 Kilhoffer at least two weeks prior to the fire incident.

5. On January 28, 2020, at approximately 5:06pm, the Buffalo Fire Department responded to 79 Kilhoffer Street, Buffalo, NY, on an emergency call for a structure fire. The building was a vacant structure under renovation by Habitat for Humanity, which receives federal funding used for various projects, including the renovation of the building. The funds travelled in interstate commerce. The Fire Department estimated the damages to the structure at approximately \$80,000, and one firefighter experienced medical difficulty and was taken to a medical facility for evaluation. The Buffalo Fire Marshal's Office responded to investigate the cause of the fire and quickly determined the fire to be arson based on evidence recovered at the scene, particularly a partially burned iced tea bottle with remnants of suspected gasoline, as well as a gas can red in color. The evidence was collected and submitted to the Erie County Central Services Laboratory for analysis. The Buffalo Fire Marshal's Office contacted ATF Buffalo Field Office for assistance in the arson investigation based on a possible firebomb being recovered, as well as for investigative support. Investigators learned early on in the investigation from Murray Holman, an advocate for Habitat for Humanity and a local volunteer for "Peace Keepers" that the Habitat for Humanity building was broken into a few days prior to the arson, and tools, as well as other property belonging to construction contractors, were stolen. Management for Habitat for Humanity was planning to install security cameras on the structure to deter any future crime at the address, 79 Kilhoffer Street, Buffalo, New York.

6. ATF Special Agent Gerald O'Sullivan and Buffalo Fire Investigators obtained exterior video footage from Harmac, a medical supply company located at 2201 Bailey Avenue located in Buffalo, New York. Harmac is approximately one (1) block from Kilhoffer Street. The video footage showed distant footage of an unidentified person at the rear of 79 Kilhoffer Street shortly before the start of the fire. The footage further showed what appears to be a flash coming from or near the rear of 79 Kilhoffer. The footage also shows an unidentified sedan type vehicle pulling up in front of 79 Kilhoffer shortly before the fire and drop off at least one (1) individual.

7. On February 4, 2020, ATF Special Agent Gerald O' Sullivan, along with other investigators interviewed SMART at the Buffalo Fire Marshal's Office. SMART was identified as a person of interest early on in the investigation. SMART was advised of her Miranda rights and voluntarily agreed to speak with investigators. SMART stated in substance that on or about January 28, 2020, she woke up around 9:30am and went to the rear of 97 Kilhoffer Street and located a plastic gas can, red in color. SMART placed the aforementioned gas can on top of a garbage tote, green in color, and walked away. SMART then met her friend Haley, later identified as HALEY KNIGHT. According to SMART, she and KNIGHT returned to Kilhoffer Street later that day (January 28, 2020) where SMART retrieved the gas can, red in color, from behind 97 Kilhoffer Street. SMART indicated that she (SMART) and KNIGHT then obtained a ride from her (SMART's) friend Markus, later identified as James YOUNG, who drove a Ford Taurus, blue in color, to the Ferry Express gas station located at 2239 Bailey Avenue, Buffalo, New York. While parked at the Ferry Express, SMART exited the Ford Taurus and went inside the store with a gas can in hand.

SMART purchased \$4.00 in gas and a lemonade iced tea. SMART then pumped \$4.00 worth of gasoline into the gas can, red in color, re-entered the Ford Taurus and YOUNG drove her and KNIGHT back to 79 Kilhoffer Street where YOUNG dropped SMART and KNIGHT off.

8. SMART continued that once at 79 Kilhoffer Street, SMART and KNIGHT both walked behind 97 Kilhoffer Street where SMART poured gasoline from the plastic gas can into her used iced tea bottle. SMART indicated that she and KNIGHT left the iced tea bottle and plastic gas can, red in color, on top of a garbage tote, green in color, behind 97 Kilhoffer Street and walked away. A few minutes later, a fire was reported at 79 Kilhoffer Street.

9. Investigators obtained and reviewed video footage dated January 28, 2020, from the Ferry Express gas station located at 2239 Bailey Avenue, Buffalo, New York. The footage depicts a Ford Taurus, blue in color, pulling into the gas station alongside the building. An unidentified female appears to exit the front passenger seat and enters the store, carrying what appears to be a plastic gas can, red in color. The unidentified female appears to place the gas can on the floor near the front of the store, proceeds to the back of the store and retrieves what appears to be an iced tea bottle from one of the coolers. The unidentified female then holds up the iced tea bottle with one (1) hand and holds the gas can with the other hand, appearing to pay for the iced tea and gasoline. The unidentified female is then seen at the gas pump, bending over and pumping gasoline into the plastic gas can, red in color. The unidentified female re-enters the Ford Taurus, blue in color and the vehicle drives away.

10. On March 11, 2020, ATF Special Agent Gerald O'Sullivan, along with other investigators, interviewed Hali KNIGHT. KNIGHT stated in substance that on January 28, 2020, she was hanging out with her friend, Jade SMART, when they ran into SMART's friend, James YOUNG. According to KNIGHT, SMART asked YOUNG for a ride to the gas station and YOUNG agreed to take them. KNIGHT recalls sitting in the rear passenger seat and SMART sat in the front passenger seat of the vehicle driven by YOUNG. KNIGHT recalled SMART exiting the vehicle at the gas station and went into the store to purchase gasoline. KNIGHT was shown video footage obtained from the gas station and she identified the female depicted in the video purchasing the gasoline as Jade SMART. KNIGHT further stated that YOUNG drove them back to Kilhoffer Street and dropped them off. Thereafter, she and SMART walked to the rear of an abandoned house next to 97 Kilhoffer Street, Buffalo, New York. KNIGHT stated she observed SMART pour the gasoline from the gas can, red in color, into the same iced tea bottle purchased earlier by SMART at the gas station. KNIGHT then observed SMART use a lighter to light up the iced tea bottle and then toss the bottle through an opening in the rear of the house located at 79 Kilhoffer Street, Buffalo, New York, causing the structure to be set ablaze.

11. At the scene of the fire on January 28, 2020, investigators recovered the gas can as well as the iced tea bottle. Both items were submitted to the Erie County Central Police Services Forensic Laboratory for analysis. Subsequent DNA testing determined that the gas can contained a mixture of DNA from one (1) male individual and one (1) female individual. The report further indicates that the DNA results for the gas can are at least 6.03 million times

more likely if they originated from Jade Smart and one unknown individual rather than if they originated from two unknown individuals in the U.S. population.

**WHEREFORE**, probable cause exists to believe that SMART has violated Title 18 U.S.C. Section 844 (i), maliciously damage or destroy, or attempt to damage and destroy, by means of fire or an explosive, a building used in interstate or foreign commerce.



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ROBERT GRUNDER  
Special Agent  
Bureau of Alcohol, Tobacco, Firearms and  
Explosives

Sworn to before me telephonically,  
this 20th day of October, 2021



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HONORABLE JEREMIAH J. MCCARTHY  
United States Magistrate Judge